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MAILED

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In re Patent No. 5,935,846	:	OFFICE OF PETITIONS
Issued: August 10, 1999	:	
Application No. 08/793,833	:	NOTICE
Filed: February 18, 1997	:	
Attorney Docket No. 69430	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 4, 2012.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED AS MOOT**.

This patent was granted large entity status on October 22, 2008. The large entity seven and one-half year maintenance deficiency fee in the above-identified patent was previously submitted on September 30, 2008. Therefore, no deficiency submission is required. Accordingly, all fees paid in this patent must be paid at the large entity rate.

The deficiency submission fee of \$1,700.00 submitted October 4, 2012, is unnecessary, since the deficiency fee was previously paid on September 30, 2008. Petitioner may request a refund of

this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Further, it is not apparent whether the person signing the request was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the request, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Timothy E. Levstik
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